UNITED NATIONS **A**

General Assembly

Distr.
GENERAL

A/49/426
23 September 1994

ORIGINAL: ENGLISH

Forty-ninth session
Agenda item 100 (a)

HUMAN RIGHTS QUESTIONS: IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS

Letter dated 23 September 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a copy of the letter from Mr. Vladislav Jovanovic, Minister for Foreign Affairs of the Federal Republic of Yugoslavia, addressed to the Chairman of the Fifth Meeting of Chairpersons of Human Rights Treaty Bodies, held at Geneva (see annex).

I should be grateful if you would have the present letter and its annex circulated as an official document of the General Assembly under agenda item 100 (a).

(Signed) Dragomir DJOKIĆ
Ambassador
Chargé d'affaires a.i.

ANNEX

Letter dated 22 September 1994 from the Minister for Foreign Affairs of Yugoslavia addressed to the Chairman of the Fifth Meeting of Chairpersons of Human Rights Treaty Bodies

I have the honour and duty to address the Fifth Meeting of Chairpersons of Human Rights Treaty Bodies in order to draw attention to the illegal practice pursued in the United Nations concerning the Federal Republic of Yugoslavia's treaty capacity. All the more since the agenda of your meeting contains, inter alia, the review of recent developments relating to the work of the treaty bodies.

As of late, the practice of preventing representatives of the Federal Republic of Yugoslavia from participating in the review meetings on the implementation of the rights and duties under the conventions on human rights has become ever more frequent. Such decisions are legally unfounded and, as they are always initiated by the same group of countries, it is obvious that these acts are politically motivated without any basis in international law.

For example, at the beginning of this year, Yugoslav representatives were prevented from attending the meetings of the States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, held on 17 January 1994, and to the Convention on the Elimination of All Forms of Discrimination Against Women, on 7 February 1994. The most recent example is the prevention of Yugoslav representatives from participating in the fourteenth meeting of the States parties to the International Covenant on Civil and Political Rights, held on 8 September 1994. This decision was adopted at a moment when the Federal Republic of Yugoslavia was considering most seriously acceding to the First Optional Protocol.

It is difficult to understand that the Federal Republic of Yugoslavia has been denied the right to participate in these meetings, after it had clearly expressed its wish to cooperate. I would like to remind the distinguished experts that, in accordance with the commitments stemming from the above Conventions, the Federal Republic of Yugoslavia has submitted extraordinary reports to the Committee for Human Rights, the Committee for the Elimination of Discrimination Against Women and the Committee for the Elimination of Racial Discrimination, and received the mission of the latter at the end of 1993. It is necessary to underline that, despite the decision of the States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, the Government of the Federal Republic of Yugoslavia has recently submitted to the Committee for the Elimination of Racial Discrimination a supplementary report, which is yet another proof of its readiness and resolve to respect and implement, in good faith, the international commitments it has assumed to which it is bound by the Declaration of the Federal Assembly of the Federal Republic of Yugoslavia of 27 April 1992.

The decisions adopted at the above meetings are in direct contravention of the provisions of both Conventions and the International Covenant, as well as the general norms of the international law on treaties, which defines the

conditions under which a Member State may be denied its treaty rights. It is for this particular reason that the specific norms of international law were not invoked in any of the instances when decisions were adopted to suspend Yugoslav representatives.

Such a practice constitutes a dangerous precedent being created under the auspices of the United Nations, which may have far-reaching effects. Since the international instruments belonging to the category of treaties are valid erga omnes, it is even more difficult to understand that under these treaties citizens of a State that has proved by its behaviour so far to respect the basic standards in the field of human rights are discriminated against.

Because of this unlawful practice, which has no grounds in international law, the Government of the Federal Republic of Yugoslavia expressed its protest against this by submitting an aide-memoire to the Secretary-General of the United Nations. In that aide-memoire the Yugoslav Government clearly emphasized its readiness to respect all the commitments under the international instruments to which it is party, but, at the same time, it underlined with resolve that it is impossible to separate obligations and rights, which are equal for all the Member States. It also pointed out that if a group of countries arranges for a decision to be adopted to suspend the rights of Yugoslavia as a Member State, by the same token, it has suspended, contrary to Yugoslavia's will and orientation, its obligations emanating from international instruments.

Moreover, it is unacceptable and dangerous that some States adopt decisions contrary to the opinion and position of the Legal Counsel of the United Nations (A/47/485) and the opinion of 16 November 1993, according to which General Assembly resolution 47/1 of 22 September 1992 has no bearing on the status of Yugoslavia as a party to international treaties. Such arbitrariness of a group of countries, which initiated action to prevent representatives of the Federal Republic of Yugoslavia from participating in the work of the meetings of States parties to the aforementioned conventions, brings into question the basic principles of international law and the Charter of the United Nations, as well as the authority of the main organs of the United Nations.

In conclusion, I wish to express my hope that, by accepting the above arguments, you will, in view of your capacity, see to it that such unlawful acts against the Federal Republic of Yugoslavia are not repeated in the future, thus preventing this dangerous precedent and political manipulations from becoming a regular practice within the United Nations.

Vladislav JOVANOVIĆ

UNITED
NATIONS

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General Assembly

Distr.
GENERAL

A/49/427
23 September 1994

ORIGINAL: ENGLISH

Forty-ninth session
Agenda item 138

REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWENTY-SEVENTH SESSION

Implementation of paragraphs 5 and 6 of resolution 48/32 on granting travel assistance to delegates of developing countries

Report of the Secretary-General

I. INTRODUCTION

1. The United Nations Commission on International Trade Law (UNCITRAL), when discussing at its twenty-third session the United Nations Decade of International Law, noted that the activities suggested by the General Assembly in its resolution 44/23 of 17 November 1989 relating to the teaching, study, dissemination, wider appreciation and promotion of international trade law would have their impact in all regions, but that they would be of greatest significance in developing countries. In the same spirit, it was suggested that an attempt should be made to finance the travel of experts from developing countries, and especially from States members of the Commission, to the sessions of the Commission and its working groups so that those States would be in a better position to contribute actively to the creation of international trade law.

2. Pursuant to a request expressed by the General Assembly in paragraph 5 of its resolution 45/42 of 28 November 1990, the Secretary-General submitted to the Assembly at its forty-sixth session a report (A/46/349), analysing possible ways by which assistance could be given to developing countries that were members of the Commission, in particular least developed countries, so that they might attend meetings of the Commission and its working groups, bearing in mind the arrangements that existed for United Nations bodies generally pursuant to section IX of resolution 43/217 of 21 December 1988.

3. The General Assembly at its forty-sixth session, adopted resolution 46/56 B of 9 December 1991, in which it requested "the Fifth Committee, in order to

ensure full participation by all Member States, to consider granting travel assistance, within existing resources, to the least developed countries that are members of the Commission, as well as, on an exceptional basis, to other developing countries that are members of the Commission at their request, in consultation with the Secretary-General, to enable them to participate in the sessions of the Commission and its working groups;' and also recommended that ... "the Commission rationalize the organization of its work and consider, in particular, the holding of consecutive meetings of its working groups".

4. At its forty-seventh session the General Assembly adopted resolution 47/34 of 25 November 1992, in paragraphs 12 and 13 of which it requested "the Fifth Committee, in order to ensure full participation by all Member States, to continue to consider granting travel assistance, within existing resources, to the least developed countries that are members of the Commission, as well as, on an exceptional basis, to other developing countries that are members of the Commission at their request, in consultation with the Secretary-General, to enable them to participate in the sessions of the Commission and its working groups;" and also recommended "that the Commission pay special attention to the rationalization of the organization of its work and consider all possibilities for rationalization, in particular the holding of consecutive meetings of its working groups".

5. And at its forty-eighth session, the General Assembly adopted resolution 48/32 of 9 December 1993, paragraphs 5 and 6 of which read as follows:

> ["The General Assembly]
>
> 5. Requests the Secretary-General, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to establish a separate trust fund for the Commission to grant travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General;
>
> 6. Decides, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to continue its consideration in the competent Main Committee during the forty-eighth session of the General Assembly on granting travel assistance, within existing resources, to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General".

6. By the same resolution, the General Assembly also requested the Secretary-General to submit a report on the implementation of paragraphs 5 and 6 of that resolution to the Assembly at its forty-ninth session. The present report is submitted pursuant to that request.

II. ESTABLISHMENT OF THE TRUST FUND

7. The process of setting up the Trust Fund pursuant to the request of the General Assembly contained in paragraph 5 of resolution 48/32 is now completed and a communication to announce the establishment of the Fund and to seek contributions is in the process of being sent to Member States.

III. RATIONALIZATION OF ORGANIZATION OF WORK

8. The General Assembly, in its resolutions 46/56 and 47/34, had recommended that the Commission consider holding consecutive meetings of its working groups as a means of rationalizing its organization of work. The Commission had discussed the matter at its twenty-sixth session in 1993 and had concluded, that, because of the nature of the work assigned to each working group, delegations should normally be composed of different experts and therefore the holding of consecutive meetings would not result in savings on travel costs for delegations. 1/ At its twenty-seventh session, the Commission discussed the experience gained with regard to the holding of consecutive meetings of working groups. The following is the excerpt from the report on the Commission's twenty-seventh session 2/ on this point:

> "The Commission also took note of the outcome with regard to the holding of consecutive meetings of the Commission's working groups, which had been recommended by the General Assembly in paragraph 13 of its resolution 47/34 of 25 November 1992 and had been discussed by the Commission at its twenty-sixth session. It was observed that, as a result of scheduling by the Office of the Conference Services of the United Nations Secretariat, two instances of consecutive meetings had been held, one involving a four-week period and the other a six-week period. It was observed that the experience at those sessions had brought out the disadvantages of holding consecutive meetings of different working groups to the work of the Commission, disadvantages that had been discussed at the twenty-sixth session of the Commission."

IV. CONTINUED CONSIDERATION IN COMPETENT MAIN COMMITTEE

9. There was no further consideration of this matter during the forty-eighth session. The Secretary-General recommends that the matter be finalized at the current session.

Notes

1/ See Official Records of the General Assembly, Forty-eighth Session, Supplement No. 17 (A/48/17), paras. 339-341.

2/ Ibid., Forty-eighth Session, Supplement No. 17 (A/48/17), para. 254.

UNITED
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General Assembly

Distr.
GENERAL

A/49/428
23 September 1994

ORIGINAL: ENGLISH

Forty-ninth session
Agenda item 92

AGENDA FOR DEVELOPMENT

Letter dated 23 September 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the position of the Government of the Federal Republic of Yugoslavia on your report "An Agenda for Development" (see annex).

I should be grateful if you would have the present letter and its annex circulated as an official document of the General Assembly under agenda item 92.

(Signed) Dragomir DJOKIĆ
Ambassador
Chargé d'affaires a.i.

ANNEX

Position on the report of the Secretary-General entitled "An Agenda for Development" of the Government of Yugoslavia

1. The Government of the Federal Republic of Yugoslavia welcomes the report "An Agenda for Development" of the Secretary-General of the United Nations (A/48/935) and views it as an important step in formulating the platform for the activities of the international community in overcoming the major problem at the threshold of the twenty-first century, the problem of poverty and underdevelopment of a large portion of mankind and further widening of the gap between the developed and underdeveloped as a most serious threat to world peace and security. Well-formulated and well-focused conclusions and recommendations of the Agenda for Development, with additional elaboration and concretization in the process of deliberations and adoption, may serve as a solid basis for efficient engagement in resolving development problems through mechanisms, instruments and activities of the international community and the United Nations as its universal and irreplaceable forum.

Economic growth is rightfully seen as an engine of development as a whole and should be accorded priority in the new development vision. Its satisfactory realization implies, inter alia, the parallel existence of development-oriented and market-based economic policies, as well as a favourable international economic climate as a precondition for the development of national economies. The overriding cause of development problems and hardships in developing countries is exactly the external unfavourable economic environment (barriers to market access, unfavourable terms of trade, debts and their servicing, unsatisfactory financial flows, restrictive access to technologies and other well-known impediments to development). Consequently, the Government of the Federal Republic of Yugoslavia supports the conclusions and recommendations from the Agenda that accord a greater role to the United Nations system and multilateral cooperation in this area in order to ensure an adequate international economic climate.

The high level of interrelation between economic growth at the global level is a well-known factor: the successful and stable growth of developed economies favourably affects the growth and development of the underdeveloped and vice versa. Proceeding from that premise, as well as from positive experiences in the wake of the disappearance of global confrontations at a political level, it is necessary that the Agenda's adoption mark an end to all forms of confrontation of the developed and underdeveloped in the interest of consultations, coordination, cooperation and assistance. In such conditions, the cooperation between the developed and developing would be mutually useful and necessary as an instrument of world development as a whole, whereas the efficiency of the engagement of the United Nations system in the field of development would increase substantially.

2. While the Government of the Federal Republic of Yugoslavia essentially supports the conclusions and assessments of the Agenda for Development, particularly the comprehensive and analytic method highlighting the crucial

preconditions of development such as peace, economy, environment, social dimension and democracy, it would like to point to some issues that have not been adequately addressed in the Agenda though they represent important factors of development

In the framework of the thoroughly elaborated five major conditions or dimensions of development and successful presentation of their causal interaction and interlinkage, in order to be comprehensive, the Agenda for Development would have to contain an analysis of an acute problem faced regrettably by a number of only developing countries, namely, the sanctions imposed by the Security Council or individual countries in order to achieve vaguely defined goals. The relation between sanctions and development therefore has to find its place in such a report, not just be mentioned indirectly in a totally different context without adequate elaboration (para. 143). The crippling effects of the sanctions on development, viewed in the broadest sense, in many ways equal those caused by war devastation. Therefore, it would seem appropriate that a table of countries according to their level of development be supplemented with the category "countries against which sanctions have been applied" as has been done with the category of countries affected by conflict in paragraph 16 of the Agenda.

Uncritical imposition, perpetuation and threat of sanctions is increasingly present as a phenomenon in international relations. There is a realistic danger that sanctions will become a highly undesirable instrument in the process of establishing a new world order, with extremely negative consequences for development, peace, democracy, humanity and other vital goals of the international community in the countries directly affected by the sanctions, as well as neighbouring and other countries.

The goals sought to be achieved by sanctions and formal reasons for their impositions are, as a rule, of doubtful character and limited to the assessments and interests of a narrow circle of influential countries. It is often forgotten, however, that the sanctions have never been successful in achieving the goal for which they were allegedly imposed. It is also forgotten that the consequences of the sanctions, which affect whole regions, return as a boomerang to the international community through enormous increases of the resources and efforts that need to be invested to alleviate the newly created situations. Humanitarian and social hardships, tensions and threats in the countries hit by the sanctions require, as a rule, emergency interventions that necessarily come at the expense of engagement and assistance where development problems and poverty are historically conditioned.

As a country that suffers from unjust sanctions that have been kept in place without any justification, the Federal Republic of Yugoslavia can provide telling examples on the character and scope of the devastating effects of the sanctions on development. Industrial output in 1993 fell to two fifths compared with the previous period, current expenditures have been halved and investment expenditures fell to one fifth compared with the period before the sanctions were imposed (1990). The whole system and network of institutions of social welfare, education and environment control, with often tragic consequences have been threatened or ground to a standstill (inter alia, mortality rates have increased, particularly among the children and elderly). All programmes of

scientific, technological and technical cooperation have been suspended and the normal flow of information has been blocked. Average income in 1993 dropped to the levels of 25 years ago and likewise the country's overall development has been reversed. So far direct losses in the economy and otherwise are estimated at $45 billion, with projections that in the next decade they will total $150 billion. The losses sustained by the neighbouring countries are estimated at tens of billions of dollars, many of which are transit countries and facing substantial development problems themselves. It is extremely important that the Agenda for Development provide an answer whether and how those cases and the consequences of the sanctions should be incorporated into its spirit and goals.

The Federal Republic of Yugoslavia is convinced that if the Agenda for Development opted against sanctions in general, particularly against their uncritical imposition and perpetuation, that would contribute to this document's becoming a true reflection of real conditions and hardships affecting development and consequently ensure more successful resolution of the development problems in the world.

3. In conditions of lack of satisfactory global coordination of national economic policies and other relevant development factors that should be reached by long-term activities, the role of regional economic linking and cooperation in development is of extreme importance, as has been set out in paragraph 146 of the Agenda for Development.

In addition to the overwhelming contribution to economies of the countries engaged in such cooperation, it is a fact that other development preconditions as well (peace, understanding, confidence, movement of people, etc.) develop more favourably in cases where regional economic integrations exist and function effectively. Quite contrary is the case where such cooperation and linking is missing or is insufficient, such as in the Balkan peninsula, where the Federal Republic of Yugoslavia is situated.

In view of this, the Government of the Federal Republic of Yugoslavia considers that the Agenda for Development, in the framework of deliberations of basic dimensions of development, should accord more attention to this issue. In addition to the favourable assessment, greater and more direct support should be given to the promotion of the activities of existing and the setting up of new regional economic groups. In that context, it is important that the international community solicit assistance and support to development through regional economic groups and projects at that level, at the expense of direct assistance to countries that have not been included in such cooperation for subjective reasons.

4. In the end, reaffirming its unreserved commitment towards the United Nations system and its irreplaceable role at the international level, which by presenting and adopting the Agenda for Development becomes an ever more universal forum of the international community, the Government of the Federal Republic of Yugoslavia expresses the need for the entire engagement of the United Nations in resolving development problems to be ensured more transparency

and efficiency, with full respect for the goals and principles of the Charter and all characteristics of the position and activities of the United Nations set out in paragraph 14 of the Agenda.